

**Department of Mental Health  
Exceptions Committee Meeting**

**December 5 and December 29<sup>th</sup> , 2003**

***(Editor's note: the Exceptions Committee met twice in the month of December and the result of both meetings are contained in this document)***

**Minutes and responses of meeting on December 5, 2003**

In attendance were Julie Carel, Rosie Anderson-Harper, Donna Haley, Rebecca Carson, and coordinator Rich Overmann.

Doris Jackson, a private individual requested the department to reconsider a previous denial of a request on her behalf under 9 CSR 10-5.190. The request was originally submitted in June 2003 by Swope Parkway Health Center. At that time the committee requested additional information which was received in time for the October meeting. Printed below is are relavant excerpts from the minutes of the June and October meetings.

Swope Parkway Health Center requested an exception on behalf of Doris Jackson under 9 CSR 10-5.190. The committee first considered this request in June 2003 and requested additional information. The following is an excerpt from the June minutes.

Swope Parkway Health Center requested an exception on behalf of Doris Jackson under 9 CSR 10-5.190. She is disqualified from employment due to two felony robberies, one in 1979 and another in 1990. The committee noted that Ms. Jackson Criminal History Record is dated April 20, 2001 and indicates that she was put on parole in January of 2001. The committee requested an updated copy of Ms. Jackson's Criminal History Record and more information about her current probation status.

With receipt of additional information, the committed renewed its consideration at the October meeting. The committee noted Ms. Jackson's statement that she is in her eighth year of sobriety. However, the criminal record history indicates that she received a suspended imposition of sentence for a drug-related crime in January of 2001. She was released from probation on August 25, 2003. The committee denied the request.

In mid-November I received a call from Ms. Jackson. She stated that she thinks that there was some confusion about the dates on her criminal record and requested an opportunity to present more information. I told her I would present to the committee anything she would send.

I then received the following three documents, all of which are attached.

- ⇒ A typed letter from Ms. Jackson dated November 19, 2003
- ⇒ A letter from her probation and parole officer
- ⇒ A letter from her attorney
- ⇒ A handwritten letter from Ms. Jackson dated November 25, 2003.

At its meeting on December 5, 2003 the committee reviewed the additional information submitted by and on behalf of Ms. Jackson and approved the exception on the condition that it is limited to her employment in the field of Alcohol and Drug abuse at Swope

Parkway Health Center. If Ms. Jackson wishes to work with a different type of client or to obtain employment at another agency it will be necessary to submit another request.

Comprehensive Community Mental Health Center, Nevada Missouri, requested an exception under 9 CSR 10-5.190 on behalf of Patricia Shell whose name was entered on the DMH disqualification registry due to a finding of Class I Neglect about 1990. The department postponed consideration of this request pending receipt of additional information regarding the disqualifying incident and pending approval by the department of the committee's criteria for making determination on exceptions related to the DMH disqualification registry. An interim meeting for this request will be scheduled during the week between Christmas and New Years.

Kansas City Community Center requested an exception from the requirements of 9 CSR 30-3.120(5)(B)1 in order to count full-time volunteers toward meeting staffing requirements. The committee did not approve the request because volunteers are not counted as meeting the minimum staffing levels required by the rule.

#### **Minutes of meeting on December 29, 2003**

In attendance were Connie Cahalan, Julie Carel, Becki Carson, Donna Haley, Jodi Frederick, Terry Jackson and coordinator Rich Overmann.

Amanda Carpenter, a private individual, requested an exception under 9 CSR 10-5.190. She is listed on the DMH disqualification registry due to a finding of Class I Neglect in 2001 when she was employed at Skills Unlimited. She left a client unattended in an automobile. The committee approved the request.

CMHC, Inc., Nevada, MO, requested an exception under 9 CSR 10-5.190 on behalf Patricia Shell, who is listed on the DMH disqualification registry due to a finding of Class I Neglect in 1991 when she was employed by DMH at Western Missouri Mental Health (Tracy Group Home). The disqualifying incident was described by the department as "inappropriate client-employee relationship and failure to provide reasonable and necessary services to maintain physical and mental health of client". The committee did not approve the request.

Hannibal Council on Alcohol and Drug Abuse requested an exception from 9 CSR 30-3.190(4)(A) relating to day care licensing in the agency's C-STAR program. The agency seeks an exemption from day care licensing by the Department of Health and Senior Services. The committee noted that the information presented in the request, and its attachments, was incomplete and sometimes apparently inconsistent. For example the Department of Health and Senior Services declared the day care program exempt from licensure because it operates less than four hours a day but, in its request, the agency administrator stated the hours of operation would be from 8AM to 5PM. The committee deferred its decision pending receipt of responses to the following questions.

1. How many hours each day is the day care program operational?
2. Is the day care program open to the general public?
3. Are the children in day care with their parent or parents some of the time?

4. Has the agency surrendered its day care license from 8AM to 5PM?
5. If the exception is granted what would the staff/child ratio be in the day program.

Comprehensive Mental Health Services, Inc. requested an exception under 9 CSR 10-5.190 for an employee, Thomas McGee, who committed the following crimes: first degree arson, perjury, false report, and hindering prosecution. The committee denied the request in November 2003 because Mr. McGee was still on probation. In December of 2003 the agency submitted documentation from the Circuit Court of Jackson County indicating that Mr. McGee was released from probation on December 8, 2003. The committee approved the request in consideration of the document the Circuit Court of Jackson County discharging Mr. McGee from probation. The approval is on the condition that his employment is limited to Gateway Center and that if he wishes to work at another agency it will be necessary for him to reapply for an exception.

The committee also noted that -

- ⇒ Mr. McGee was hired on May 17, 2003;
- ⇒ The Criminal History Record from the Missouri State Highway Patrol citing Mr. McGee's disqualifying offenses and submitted with the agency's request is dated June 21, 2003; and
- ⇒ The request for an exception was submitted on November 5, 2003.

This means that the agency retained Mr. McGee in employment after it became aware that Mr. McGee was disqualified from employment for a minimum of four months before requesting an exception. His employment was not in compliance with section 660.317 RSMo and contrary to certification rules under 9 CSR 10-5.190. The committee instructed the coordinator to bring this to the attention of the administrator and the department's licensure and certification director.

Summer Wogoman, a private individual, requested an exception under 9 CSR 10-5.190. She pled guilty to first degree assault in 1998. Documentation submitted with her request included an application for a good cause waiver from DHSS. Nancy Schulte of DHSS informed the committee that Ms. Wogoman does not need a good cause waiver because she has completed probation and her records are closed. Under these circumstances, she is no longer disqualified under DHSS statutes. The committee approved the request.

Reality House Programs, Inc., Columbia, requested waivers of the following requirements: (1) 9 CSR 10-7.120(8) (C) relating to exit requirements; (2) 9 CSR 10-7.020(4) (C) requiring clients to wear their own clothing; and (3) 9 CSR 30-3.060(4)(B)1 limiting bedrooms to four residents. The committee approved these waivers last spring. The agency subsequently withdrew its application for licensure. The agency has now reapplied for licensure and is again requesting the waivers. The committee initially approved the request with respect to the three rules cited but postponed a final decision until it receives additional information from the licensure and certification unit..

Arthur Watson, a private individual, requested an exception under 9 CSR 10-5.190. He committed simple assault and armed robbery. The committee noted that at least one, possibility two, of the documents submitted with the request violated confidentiality and that the crime of armed robbery was as recent as 1997. The committee denied the request.

December 9, 2003

Doris Jackson  
3519 Cypress  
Kansas City, MO 64128

Dear Ms. Jackson:

On December 5, 2003, the Department of Mental Health Exceptions Committee reconsidered a request for an exception made by Swope Parkway Health Center on your behalf under 9 CSR 10-5.190. The committee reviewed the additional information we received and approved the exception on the condition that it is limited to your employment in the field of Alcohol and Drug abuse at Swope Parkway Health Center. If you wish to work with a different type of client or to obtain employment at another agency it will be necessary to submit another request.

In your letter of November 25, 2003 you asked why the department's surveyors did not raise the issue of your criminal background at earlier surveys. In partial answer to that question I can advise you that the department's licensure and certification staff review only a sample of an agency's personnel files at each survey.

If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely.

Richard H. Overmann  
Exceptions Committee Coordinator

Cc Swope Parkway Health Center

December 9, 2003

Heather Daugherty  
Comprehensive Community Mental Health Center  
815 S. Ash  
Nevada, MO 64772

Dear Ms. Daugherty:

On December 5, 2003, the Department of Mental Health Exceptions Committee reviewed your request for an exception dated November 20, 2003 regarding Patricia Shell. HOLD RESPONSE UNTIL MEETING IN LATE DECEMBER.

If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely,

Richard H. Overmann  
Exceptions Committee Coordinator

December 6, 2003

Charles Megerman  
Kansas City Community Center  
1514 Campbell  
Kansas City, MO 64108

Dear Mr. Megerman:

On December 5, 2003, the Department of Mental Health Exceptions Committee reviewed your request for an exception dated November 10, 2003. The request sought a waiver of staffing requirements under 9 CSR 30-3.120(5)(B)1 which requires two staff to be on duty at all times. The committee did not approve the request because volunteers are not counted as meeting the minimum staffing levels required by the rule.

If you have any questions in this matter, please give me a call at 573-751-8077.

Sincerely,

Richard H. Overmann  
Exceptions Committee Coordinator

January 6, 2004

Amanda Carpenter  
326 E. Grand  
Nevada MO 64772

Dear Ms. Carpenter:

On December 29 2003, the Department of Mental Health Exceptions Committee considered and approved your request for an exception. This exception does not mean that your name is removed from the DMH disqualification registry. It does mean that you are no longer barred from employment in residential facilities, day programs and specialized services that are operated, funded, licensed or certified by the department of mental health.

If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely.

Richard H. Overmann  
Exceptions Committee Coordinator



Janaury 6, 2003

Heather Daugherty  
CMHC, Inc.  
Director of Human Resources  
815 S. Ash  
Nevada, MO 64772

Dear Ms. Daugherty:

On December 29 2003, the Department of Mental Health Exceptions Committee considered your request for an exception dated November 20, 2003 on behalf of Patricia Shell. The committee did not approve the request.

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If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely.

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Richard H. Overmann  
Exceptions Committee Coordinator

Janaury 6, 2004

Earl Best, Executive Director  
Hannibal Council on Alcohol and Drug Abuse  
146 Communications Dr.  
Hannibal, MO 63401

Dear Mr. Best:

On December 29 2003, the Department of Mental Health Exceptions Committee considered your request for an exception dated December 3, 2003. The request solicited a waiver of regulations relating to your day care program under 9 CSR 30-3.190 (4). The committee noted that the information presented in the request, and its attachments, was incomplete and sometimes apparently inconsistent. For example the Department of Health and Senior Services declared your day care program exempt from licensure because it operates less than four hours a day but in your letter you stated the hours of operation would be from 8AM to 5PM. The committee deferred its decision pending receipt of responses to the following questions.

1. How many hours each day is the day care program operational?
2. Is the day care program open to the general public?
3. Are the children in day care with their parent or parents some of the time?
4. Have you surrendered your day care license from 8AM to 5PM?
5. If the exception is granted what would the staff/child ratio be in the day program?

If you believe that there may be other information that would be helpful to the committee in understanding your circumstances and your request, please include that information in your response.

If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely.

Richard H. Overmann  
Exceptions Committee Coordinator

Janaury 6, 2004

Cynthia Claxton, MSW  
Comprehensive Mental Health Services, Inc.  
10901 Winner Rd  
P. O. Box 520  
Independence, MO 64052

Dear Ms. Claxton:

On December 29, 2003, the Department of Mental Health Exceptions Committee reconsidered your request for an exception dated December 3, 2003 on behalf of Thomas McGee. The committee approved the request in consideration Mr. McGee's discharge from probation by the Circuit Court of Jackson County.

The committee also noted that -

- ⇒ Mr. McGee was hired on May 17, 2003;
- ⇒ The Criminal History Record from the Missouri State Highway Patrol citing Mr. McGee's disqualifying offenses and submitted with the agency's request is dated June 21, 2003; and
- ⇒ The request for an exception was submitted on November 5, 2003.

This means that the agency retained Mr. McGee in employment after it became aware that Mr. McGee was disqualified from employment for a minimum of four months before requesting an exception. His employment was not in compliance with section 660.317 RSMo and contrary to certification rules under 9 CSR 10-5.190.

If you have any questions in this matter, please contact me at 573-751-8077.

Sincerely,

Richard H. Overmann  
Exceptions Committee Coordinator

Cc Margy Mangini

Janaury 6, 2004

Summer Wogoman  
FR 1060, Box 117B  
Monett, MO 65708

Dear Ms. Wogoman:

On December 29, 2003, the Department of Mental Health Exceptions Committee considered your request for an exception dated November 22, 2003. You requested a waiver from rules under 9 CSR 10-5.190 disqualifying you from employment. The committee approved the exception.

If you have any questions in this matter, please give me a call at 573-751-8077.

Sincerely,

Richard H. Overmann  
Exceptions Committee Coordinator

Janaury 6, 2004

Arthur L. Watson  
4441 Myrtle  
Kansas City, MO 64134

Dear Mr. Watson:

On December 29, 2003, the Department of Mental Health Exceptions Committee considered your request for an exception under 9 CSR 10-5.190. The committee did not approve the request. Under 9 CSR 10-5.190 you may reapply for an exception in twelve months.

If you have any questions in this matter, please give me a call at 573-751-8077.

Sincerely,

Richard H. Overmann  
Exceptions Committee Coordinator